IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 1613 OF 2005.

Jainuddin H.Kazi. ... Appellant.

Versus.

Hajrat Hasmuddin Kazi & others. ... Respondents.

Shri R.V.More for the Appellant.

CORAM : ABHAY S.OKA, J.

DATED : 23rd MARCH, 2006.

P.C.:

1. Heard Shri More for the Appellant. The Courts below have refused to grant relief of perpetual injunction in favour of the present Appellant. After having heard Shri More for the Appellant, I find that the view taken by the Courts below appears to be correct. The Courts below have held that the Appellant/Plaintiff is not in possession. The said finding is based on material produced on record. In view of the concurrent findings of fact, no interference is called for.

2. Shri More appearing for the Appellant has pointed out that the first appeal preferred by the Appellant against the decree passed in a Civil Suit in respect of the same property is pending in this Court. He submitted that if this Second Appeal is dismissed, it will adversely affect the Appellant/Plaintiff in the said appeal. In my view, the pendency of the First Appeal is no ground to admit the Second Appeal when no

substantial question of law arises in it. The First Appeal pending in this Court will be decided on its own merits. The Second Appeal is dismissed.

Judge.